

REMARKS

The last Office Action of October 3, 2004 has been carefully considered. Reconsideration of the instant application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-21 are pending in the application. Claim 1 has been amended. Claims 2-5 and 15-21 have been canceled. No claims have been added. No amendment to the specification has been made. No fee is due.

The Examiner presented the following claim rejections:

A) Claims 1, 6, 13, 15, and 20 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 5,865,246 to Moser.

B) Claims 2, 7-10, 16 and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Moser in view of U.S. Pat. No. 6,295,980 to Lopez et al.

C) Claim 3 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Moser in view of U.S. Pat. No. 4,967,836 to Nakamura.

D) Claims 11, 12, 18 and 19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Moser in view of U.S. Pat. No. 2,839,276 to Rossi.

E) Claim 4 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Moser in view of U.S. Pat. No. 3,489,209 to Johnson.

F) Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Moser in view of U.S. Pat. Nos. 4,993,900 to Hügel et al. and 1,347,219 to Gibson.

G) Claims 14 and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Moser in view of U.S. Pat. No. 6,050,331 to Breault et al.

Applicant has amended claim 1 by incorporating subject matter of original claims 2, 3 and 5. Claims 2, 3 and 5 as well as claims 4 and 15-21 have now been canceled. As a consequence of the amendments to claim 1, the rejections A), D), E) and G) become moot.

The present invention, as set forth in claim 1, now on file, is directed to a heat exchanger which essentially includes a tube bottom which is made of pressure-resistant and temperature-resistant plastic such as PU (polyurethane), synthetic resin, epoxy resin, or cross-linked PU, and has a trough-shaped configuration with a circumferential flange, a plurality of tubes which are made of metal such as steel, vanadium, copper, or brass and are disposed in side-by-side relationship in the tube bottom to form at least indirectly part of a distribution and/or collecting chamber, and a plurality of metallic threaded sleeves which are formed in the flange of the tube bottom through a casting process or injection process.

Moser describes a heat exchanger having a tube bottom which is molded about each of the ends of tubes. As the Examiner correctly noted, Moser fails to specify a plastic material of the tube bottom, fails to specify the material of the tubes, and fails to teach the provision of embedded metal sleeves in a peripheral flange. Hgel et al, which the Examiner applied to show the provision of metal sleeves, relate to an anchor member which is made of sheet metal and secured by permanently hardenable mass in a borehole in which the hardenable mass

has already been injected (col. 3, lines 39-41, Emphasis added). Thus, unlike the present invention, in which metal sleeves are already positioned in place and subsequently formed as the flange is molded, Hgel et al. merely describe the subsequent insertion of sheet metal sleeves into a plastic mass. Thus, it is not clear to applicant how the Moser heat exchanger can be provided with sheet metal sleeves, as taught by Hgel et al.

It is also noted that the Examiner applied a total of four references to piecemeal together the claim elements, as set forth in claim 1. It is well established, that use of the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious, is impermissible. In re Gorman, 933 F.2d 982. There is no teaching or suggestion supporting the combination as proposed by the Examiner, nor would a person skilled in the art consider, for example, the Hgel et al. reference and combine it with Moser. Moser relates to heat exchanger, whereas Hgel et al. relate to an anchor member. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. In re Gordon, 733 F.2d at 902.

For the reasons set forth above, it is applicant's contention that neither Moser, nor Lopez, nor Nakamura, nor Hgel et al, nor Gibson, nor any combination thereof, teaches or suggests the features of the present invention, as recited in claim 1.

As for the rejection of the retained dependent claims, these claims depend

on claim 1, share its presumably allowable features, and therefore it is respectfully submitted that these claims should also be allowed.

Applicant has also carefully scrutinized the further cited prior art and finds it without any relevance to the newly submitted claims. It is thus felt that no specific discussion thereof is necessary.

In view of the above presented remarks and amendments, it is respectfully submitted that all claims on file should be considered patentably differentiated over the art and should be allowed. Reconsideration and allowance of the present application are respectfully requested.

Applicant further submits formal drawings, as requested by the Examiner.

Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully requested that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. If the Examiner feels that it might be helpful in advancing this case by calling the undersigned, applicant would greatly appreciate such a telephone interview.

Respectfully submitted,

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